

IN THE UNITED STATES PATENT AND TRADEMARK OFFICE

Applicant : Van Haesendonck et al.
Appl. No. : 10/533,499
Filed : April 13, 2006
For : RHAMNOLIPIDS IN BAKERY
PRODUCTS
Examiner : Hanrahan, J.
Group Art Unit : 1794

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Neil S. Barfield, Ph.D., Reg. No. 39901

RESPONSE TO RESTRICTION REQUIREMENT**Mail Stop Amendment**

Commissioner for Patents
P.O. Box 1450
Alexandria, VA 22313-1450

Dear Sir:

In the Restriction Requirement mailed **March 2, 2009**, the Examiner alleged that the present application claimed two inventions which are not so linked as to form a single general inventive concept under PCT Rule 13.1:

- I. Claims 1, 8-11 and 25, drawn to a method.
- II. Claims 12-22 and 26 drawn to a composition.

In response to the Restriction Requirement, Applicants provisionally elect Group II (Claims 12-22 and 26), with traverse. Claims 12-22 and 26 encompass the elected invention. Applicants reserve the right to seek rejoinder of the method claims pursuant to M.P.E.P. § 821.04. Moreover, the Applicants reserve the right to file one or more divisional applications directed to any of the non-elected claims.

As recognized by the Examiner, the standard to be applied regarding restriction in national phase applications is the standard under PCT Rule 13.1. The Examiner contended that

Inventions I and II lack the same or corresponding technical features, the common feature being the use of Rhamnolipid which is allegedly disclosed in Giani (US 5,501,966; Col. 1, lines 13-15) as a plant protection agent.

Present claim 1 recites a method for increasing or improving various properties of a bakery product, dough or edible creams by addition of a rhamnolipid, and present claim 12 recites a bread improver composition comprising a rhamnolipid and other active ingredients. Thus, the common feature of both groups of claims is the presence of a rhamnolipid in the bakery product, dough, edible creams or improver composition. Giani et al. discloses production of L-rhamnose in *Pseudomonas aeruginosa* cultures by hydrolysis of rhamnolipid. However, this reference neither teaches nor suggests addition of rhamnolipid to bakery products, edible creams or improver compositions, and the present claims are thus not anticipated by this reference.

In addition, the section in Giani et al. cited by the Examiner (Col. 1, lines 13-15) refers to L-rhamnose which is a sugar. In contrast, the present claims recite the use of rhamnolipid, which is a lipid. Since sugars and lipids are completely different types of compounds with different chemical and physical properties, the disclosure of rhamnose in no way anticipates or renders obvious the present claims which recite rhamnolipid. Thus, the two inventions listed above are so linked as to form a single general inventive concept, in which the corresponding special technical feature is the use of Rhamnolipid in bakery products, dough, edible creams and improver compositions.

In view of the comments presented above, Applicants respectfully request reconsideration and withdrawal of the Restriction Requirement, and examination of all pending claims.

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No fees are believed to be due. However, please charge any fees, including any fees for extensions of time, or credit overpayment to Deposit Account No. 11-1410.

Respectfully submitted,

KNOBBE, MARTENS, OLSON & BEAR, LLP

Dated: 3/25/09

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